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11
12 **BEFORE THE ARIZONA MEDICAL BOARD**

13 In the Matter of:

MD-04-0296

14 **BERND JACOB, M.D.,**

15 Holder of License No. 10119
16 For the Practice of Allopathic
17 Medicine In the State of Arizona,

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

18 Respondent.

CONSENT AGREEMENT

RECITALS

19 In the interest of a prompt and judicious settlement of the above-captioned matters
20 before the Arizona Medical Board (the "Board") and consistent with the public interest,
21 statutory requirements and responsibilities of the Board and under A.R.S. § 41-
22 1092.07(F)(5) and A.R.S. § 32-1451(F), Bernd Jacob, M.D. ("Respondent"), holder of
23 License No. 10119 for the practice of allopathic medicine in the State of Arizona, and the
24 Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
25 ("Consent Agreement") as the final disposition of this matter.
26

1 1. Respondent has read and understands this Consent Agreement as set forth
2 herein, and has had the opportunity to discuss this Consent Agreement with an attorney.
3 Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding
4 the expense and uncertainty of an administrative hearing.

5 2. Respondent understands that he has a right to a public administrative hearing
6 concerning each and every allegation set forth in the above-captioned matters, at which
7 administrative hearing he could present evidence and cross-examine witnesses. By
8 entering into this Consent Agreement, Respondent freely and voluntarily relinquishes all
9 right to such an administrative hearing, as well as all rights of rehearing, review,
10 reconsideration, appeal, judicial review or any other administrative and/or judicial action,
11 concerning the matters set forth herein. Respondent affirmatively agrees that this
12 Consent Agreement shall be irrevocable.

13 3. Respondent agrees that the Board may adopt this Consent Agreement or any
14 part of this agreement under A.R.S. § 32-1451(F). Respondent understands that this
15 Consent Agreement or any part of the agreement may be considered in any future
16 disciplinary action against him.

17 4. Respondent understands that this Consent Agreement does not constitute a
18 dismissal or resolution of other matters currently pending before the Board, if any, that
19 are not specifically address herein. Respondent further understands that this Consent
20 Agreement does not constitute any waiver, express or implied, of the Board's statutory
21 authority or jurisdiction regarding any other pending or future investigation, action or
22 proceeding. Respondent also understands that acceptance of this Consent Agreement
23 does not preclude any other agency, subdivision or officer of this state from instituting
24 other civil or criminal proceedings with respect to the conduct that is the subject of this
25 Consent Agreement.

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1 5. All admissions made by Respondent in this Consent Agreement are made
2 solely for the final disposition of this matter, and any related administrative proceedings
3 or civil litigation involving the board and Respondent. This Consent Agreement is not to
4 be used for any other regulatory agency proceedings, or civil or criminal proceedings,
5 whether in the State of Arizona or any other state or federal court, except related to the
6 enforcement of the Consent Agreement itself.

7 6. Respondent acknowledges and agrees that, upon signing this Consent
8 Agreement and returning this document to the Board's Executive Director, Respondent
9 may not revoke his acceptance of the Consent Agreement or make any modifications to
10 the document, regardless of whether the Consent Agreement has been issued by the
11 Executive Director. Any modification to this original document is ineffective and void
12 unless mutually approved by the parties in writing.

13 7. Respondent understands that the foregoing Consent Agreement shall not
14 become effective unless and until adopted by the Board and signed by its Executive
15 Director.

16 8. Respondent understands and agrees that if the Board does not adopt this
17 Consent Agreement, he will not assert as a defense that the Board's consideration of this
18 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defense.

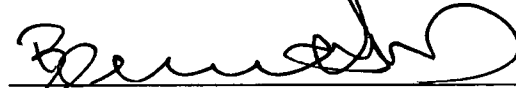
19 9. Respondent understands that this Consent Agreement is a public record that
20 may be publicly disseminated as a formal action of the Board, and shall be reported as
21 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
22 Protection Data Bank.

23 10. Respondent understands that any violation of this Consent Agreement
24 constitutes unprofessional conduct pursuant to A.R. S. §32-1401 (25)(r) ([v]iolating a
25 formal order, probation, consent agreement or stipulation issued or entered into by the
26

1 board or its executive director under the provisions of this chapter) and may result in
2 disciplinary action pursuant to A.R.S. § 32-1451.

3
4
5 ACCEPTED BY:

6 DATED: 10-14-05

7 

8 Bernd Jacob, M.D.

9 

10 Michael R. Ross, Esq.

11 Attorney for Respondent

12 **FACTUAL ALLEGATIONS**

13 **MD-04-0296**

- 14 1. On March 5, 2004, the Board opened an investigation regarding Respondent's
15 competency after receiving notification that Respondent's clinical privileges at
16 Maryvale Hospital had been suspended pending an investigation.
- 17 2. The National Practitioner Data Bank reports that Respondent resigned his
18 privileges while under, or to avoid, investigation related to his professional
19 competence or conduct. Dr. Jacob maintains that he voluntarily resigned from
20 Maryvale Hospital because of his workload, personal health problems, and his
21 decision to exclusively practice gynecology.
- 22 3. One of Respondent's patients, SP, entered Maryvale Hospital on November 8,
23 2003 in labor at 6:35 a.m. She was considered a high-risk delivery. She was in the
24 latent phase of labor after admission and progressed to 2 to 3 cm by 2:00 p.m.
25 Respondent performed an amniotomy and placed an intrauterine pressure monitor.
26

1 Pitocin was started at approximately 2:30 p.m. An epidural was placed and the
2 patient's blood pressures were noted to be 150 to 160 systolic over 80's and 90's
3 diastolic. No mention was made in the record of urinary protein, reflexes or
4 edema. By 11:15 p.m., she was thought to be complete and started her pushing
5 efforts. Respondent apparently maintained contact with nursing staff following SP
6 during the day and into the late evening.

7 4. Respondent was called away from Maryvale Hospital to attend to another patient
8 who had been admitted to Arrowhead Hospital at about midnight. The Arrowhead
9 patient was a high risk patient that Respondent felt required his immediate
10 attention. Respondent left instructions with Maryvale staff that he would be at
11 Arrowhead, approximately one-half hour away and that if SP required immediate
12 attention in his absence, they should contact the on-call obstetrician or the
13 department chairman.

14 5. The patient at Arrowhead unexpectedly did not deliver as anticipated and was
15 allowed to go through a "laboring down" second stage which lasted approximately
16 four hours before requiring a C-section. During that time, Respondent received
17 two phone calls from the Maryvale hospital indicating that mother and child were
18 doing well. After finishing at Arrowhead, Respondent returned to Maryvale,
19 apparently arriving at approximately 8:30 a.m. on November 9, 2003.

20 6. At 2:30 a.m. nursing had noted that SP had a temperature of 101 degrees and
21 Respondent gave an order for Tylenol, apparently by telephone from Arrowhead.
22 The epidural block had been continued after its placement in the previous
23 afternoon.

24 7. Upon his return, Respondent determined that a C-section would be necessary and
25 arrangements were made. The infant was delivered at 9:29 a.m. Apgars were 2
26

1 and 8. The delivery was difficult because the fetal vertex was significantly
2 engaged in the pelvis requiring the physician to elevate the head with one hand in
3 the vagina and then complete the delivery after the baby's head was elevated
4 enough to allow displacement and the delivery through the incision.

- 5 8. The standard of care requires an attending physician to properly monitor the labor
6 of a high-risk patient and should be available for complications or emergencies. In
7 this case, Respondent was engaged in the care of another patient at another hospital
8 and was unable to properly monitor the process. Because of this, the cesarean
9 section was delayed. SP had a second stage labor of approximately 10 hours
10 instead of the traditional three hours if the patient has an epidural. Even though the
11 baby was delivered in good health and was evidently being monitored, this amount
12 of time is outside the accepted amount of time given to deliver in the second stage.

13 MITIGATION

- 14 9. Effective August 31, 2005, Respondent no longer practices medicine in the State of
15 Arizona. Shortly after the event set out relating to MD-04-0296, Respondent took a
16 leave of absence because of illness. Although the record indicates that he resigned
17 his privileges at Maryvale while under investigation, Respondent indicates that he
18 resigned because of personal health issues, workload concerns, and he intended to
19 stop practicing obstetrics and instead focus only on gynecology exclusively at
20 Arrowhead Hospital.

21 ALLEGATIONS OF UNPROFESSIONAL CONDUCT

- 22 10. The Board possesses jurisdiction over the subject matter hereof and over Bernd
23 Jacob, M.C. ("Respondent"), holder of License No. 10119, for the practice of
24 allopathic medicine in the State of Arizona.
- 25 11. The conduct and circumstances described above in paragraphs 1 through 8
26

1 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(24)(q) "Any
2 conduct or practice which is or might be harmful or dangerous to the health of the
3 patient or the public."

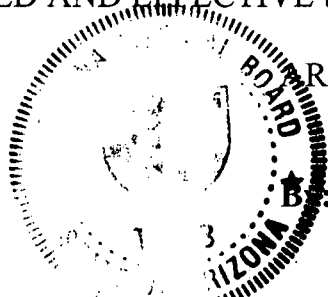
4 **CONSENT ORDER**

5 IT IS THEREFORE ORDERED that:

- 6 1. Respondent Bernd Jacob, M.D., holder of License No.10119, is hereby issued a
7 Letter of Reprimand for failing to appropriately monitor labor and delay in
8 delivery in MD-04-0296.
9 2. Acceptance of this Consent Agreement by the Arizona Medical Board will
10 conclude all proceedings related to the investigations enumerated in the
11 caption.

12 DATED AND EFFECTIVE this 9th day of February 2008⁶.

13 (SEAL)



14 ARIZONA MEDICAL BOARD

15

16 Timothy C. Miller, J.D.
17 Executive Director

18 Original of the foregoing filed this
19 9th day of February, 2008⁶,
with:

20 Arizona Medical Board
21 9545 E. Doubletree Ranch Road
22 Scottsdale, Arizona 85258

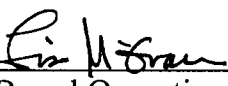
23 COPY of the foregoing mailed by U.S.
24 Certified Mail this 9th day of February, 2008⁶, to:
Regular

25 Bernd Jacob, M.D.
26 4550 North 51st Avenue, Suite 71
Phoenix AZ 85031-1708
Respondent

1 COPIES of the foregoing mailed
2 this 9th day of February, 2008⁶,
3 to:

4 Michael R. Ross, Esq.
5 Meyers, Hendricks & Bivens, P.A.
6 P.O. Box 2199
7 Phoenix, AZ 85012-2915

8 Dean B. Brekke
9 Assistant Attorney General
10 1275 W. Washington, CW/LES
11 Phoenix, Arizona 85007

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13 Board Operations

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